

BATH

# ZONING ORDINANCE

June 14, 1982

COASTAL ZONE  
INFORMATION CENTER

**BATH, North Carolina**

KFN  
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.B58  
Z66  
1982

June 1982  
Adopted

THE ZONING ORDINANCE OF HISTORIC BATH

BOARD OF COMMISSIONERS, TOWN OF BATH

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2234 South Hobson Avenue  
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ZONING ORDINANCE  
OF THE  
TOWN OF BATH, NORTH CAROLINA

ARTICLE I. TITLE, ENACTMENT AND PURPOSE

SECTION 1.01 - TITLE AND ENACTMENT

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY THE NORTH CAROLINA GENERAL STATUTES CHAPTER 160A, ARTICLE 19, FOR THE PURPOSES OF PROMOTING THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE; TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS WITHIN THE TOWN; TO REGULATE WITHIN THOSE DISTRICTS THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE REQUIRED OPEN SPACE, THE DENSITY OF POPULATION, AND THE USES OF LAND, BUILDINGS AND OTHER STRUCTURES; TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE; TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF; AND TO SUPERSEDE ANY ORDINANCES IN CONFLICT HEREWITH.

NOW THEREFORE, the Board of Commissioners of the Town of Bath, North Carolina, does hereby ordain and enact into law the following Articles and Sections, this the 14th day of June, 1982.

SECTION 1.02 - SHORT TITLE

This ordinance shall be known as the "Zoning Ordinance." The map herein referred to which is identified by the title "Official Zoning Map of Bath, North Carolina," shall be known as the "Zoning Map."

SECTION 1.03 - PURPOSE

In accordance with the provisions of Chapter 160A, Article 19 of the General Statutes of North Carolina and for the purposes more fully set out in that Chapter, the Board of Commissioners of the Town of Bath, North Carolina adopt this ordinance to provide for the orderly growth and development of the town.

ARTICLE II. ESTABLISHMENT OF ZONING DISTRICTS AND  
PROVISION FOR ZONING MAP

SECTION 2.01 - OFFICIAL ZONING MAP

For the purposes of this ordinance, the town is hereby divided into zones or districts as shown on the "Official Zoning Map of Bath, N.C.," which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor and attested by the Town Clerk and bearing the Seal of the town under the following words:

"This is to certify that this is the Official  
Zoning Map referred to in Article II of the  
Zoning Ordinance of Bath, N.C.," together  
with the date of adoption of this ordinance.

If, in accordance with Article XII of this ordinance changes are made in district boundaries or other matter portrayed on the Official Zoning Map, those changes shall be promptly entered on the Official Zoning Map after the amendment has been approved by the Board of Commissioners.

Regardless of the existence of purported copies of this Official Zoning Map which may be made or published, the Official Zoning Map which shall be located with the Town Administrator shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the town.

SECTION 2.02 - RULES GOVERNING THE INTERPRETATION OF  
DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;



SECTION 2.02

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits;
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries;
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Commissioners may permit, as conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

### ARTICLE III. INTERPRETATION AND DEFINITION OF TERMS

For the purpose of this ordinance certain words or terms used herein shall be interpreted as follows:

#### SECTION 3.01 - INTERPRETATION OF COMMON WORDS AND TERMS

Words used in the present tense include the future tense.

Words used in the singular number shall include the plural and words used in the plural shall include the singular.

The word "person" includes a firm, co-partnership, company, organization, trust, association, or corporation as well as an individual.

The word "lot" includes the words "plot," "parcel," or "tract."

The word "building" includes the word "structure."

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

The word "shall" is always mandatory.

The word "may" is permissive.

#### SECTION 3.02 - DEFINITION OF SPECIFIC TERMS AND WORDS

Accessory Use: A use which is clearly incidental to and customarily found in connection with the principal use and located on the same lot with such principal use.

Alley: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Areas of Environmental Concern(AEC's): Areas designated and regulated under the Coastal Area Management Act. AEC's in Bath's planning district are the Public Trust Waters and Coastal Wetlands (marshes) of Bath and Back Creeks (see the 1981 CAMA Land Use Plan for complete description).

Buffer Strip: A device of material, evergreen plantings and space used to provide sight and sound screening from adjoining properties.

## SECTION 3.02

The required height and width of the buffer strip and the materials used in its construction vary according to use. Where a buffer strip is required under the provisions of this ordinance, it shall meet the requirements of the Zoning Administrator.

Building: Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or public purposes.

Building, Accessory: A subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of a principal building on the same lot. Accessory buildings may be placed in any rear or side yard but may be no closer than five (5) feet from any property line.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Setback Line: A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three feet of any uncovered porches, steps, eaves, gutters and similar fixtures.

Condominium: Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants together with individual ownership in fee of a particular dwelling unit in such building.

Drive-In Restaurant or Refreshment Stand: Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single family.

Dwelling, Single-Family: A detached building designed for or occupied exclusively by one family.

## SECTION 3.02

Dwelling, Two-Family (Duplex): A detached building, divided horizontally or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit the floor structure of the unit above.

Dwelling, Multiple: A building or portion of one used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses.

Family: One or more persons occupying a single family dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain more than five (5) persons.

Home Occupation: "Home Occupation" means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residences to enjoy the peaceful occupancy of their homes.

Lot: A parcel of land which fronts on and has ingress and egress by means of a public right-of-way or an approved private street and which is occupied or intended to be occupied by a building or groups of buildings as provided herein with the customary accessories and open spaces.

Lot Area: The total horizontal area included within lot lines exclusive of any right-of-way easements.

Lot, Corner: A lot of which at least two adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than 135 degrees.

Lot Depth: The average distance from the street line of the lot to its rear line measured in a general direction of the side lines of the lot.

Lot Lines: The lines bounding a lot as defined here.

- a. Lot Line, Front: The line separating the lot from that street which is designated as the front street on the building permit, certificate of occupancy or subdivision plat.

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- b. Lot Line, Rear: The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than 30 feet long and wholly within the lot.
- c. Lot Line, Side: A side lot line is any lot boundary line not a front lot line or rear lot line.

Lot Width: The width of a lot at the required building setback line measured at right angles to its depth.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Medical Clinic: A building or structure or portion thereof where medical services are provided for out-patients only.

Marinas: Private commercial, or public places which provide facilities for the launching and recovery of boats or any of the uses included in Section 7.09 B. below. Excluded from this definition are residential boat ramp facilities allowing access only and none of the permitted uses listed in 7.09 B.

Mobile Home (Includes Double-Wide and Triple-Wide Homes): A modular unit built on a chassis, with body width exceeding 8 feet or body length exceeding 32 feet, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities. A travel trailer is not to be considered as a mobile home.

Mobile Home Park: A parcel or tract of land under single ownership which has been planned and improved for the placement of mobile homes for dwelling purposes under the provisions of Section 7.04.

Modular Unit: A factory fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include pre-fabricated panels, trusses, plumbing trees, and other pre-fabricated sub-elements which are to be incorporated into a structure at the site.

Non-Conforming Use: A use of building or land which does not conform with the regulations of the district in which such building or land is situated but was lawful before adoption of this ordinance.

Open Space: An unoccupied space open to the sky.

## SECTION 3.02

Open Storage: Unroofed storage area, whether fenced or not.

Parking Space: A vehicular storage space of not less than ten (10) feet by twenty (20), plus the necessary access space. It shall always be located outside any dedicated right-of-way.

Street: A street is any permanent dedicated public right-of-way which has been accepted for maintenance by the N.C. Department of Transportation or the town.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Townhouse: A single-family dwelling on its own individual lot but connected on two sides, by means of a common wall for at least ten (10) feet of its length, to two other single-family dwellings or an end dwelling of a row of such dwellings. No more than six (6) such dwelling units may be attached in a single group.

Trailer: Shall include any of the following:

- A. Travel Trailer: a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, and, when factory equipped for the roads, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty-two (32) feet.
- B. Pick-Up Coach: a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- C. Motor-Home: a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
- D. Camping Trailer: a folding structure of canvas or other material mounted on wheels and designed for travel, recreation, and vacation use.

Trailer Park: A parcel or tract of land under single ownership which has been planned and improved for this temporary placement of campers or trailers as a service to the traveling public. All trailer parks existing at the time of passage of

## SECTION 3.02

this ordinance which do not meet the minimum requirements established for trailer parks by this ordinance shall be considered a non-conforming use.

Use: A "Use" is:

- A. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or;
- B. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, Conditional: A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would preserve the intent of this ordinance to promote the public health, safety, morals, and general welfare. Specific provisions are made for conditional uses which may be permitted in certain zones and the procedures for application are set out in Article IX, Section 9.05 of this ordinance.

Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. In this ordinance a variance is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of the use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this ordinance, and further provided that customary accessory buildings may be located in any side or rear yard no closer than five (5) feet to any property line and subject to other limitations of this ordinance.

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- A. Yard, Front: A yard extending between side lot lines across the front of a lot adjoining the public street. Depth of required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be essentially parallel.
- B. Yard, Rear: A yard extending across the rear of the lot between side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.
- C. Yard, Side: A yard extending from the rear line of the required front yard to the rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.



## ARTICLE IV. APPLICATION OF REGULATIONS

### SECTION 4.01 - TERRITORIAL APPLICATION

The provisions of this ordinance shall apply to all lands and structures and uses within the town limits and its one-mile extraterritorial jurisdiction.

### SECTION 4.02 - USE, OCCUPANCY AND CONSTRUCTION

After the effective date of this ordinance, no building, structure, or land shall be used or occupied, and no structure or part of a structure shall be constructed except in conformity with all of the regulations specified for the district in which it is located.

### SECTION 4.03 - HEIGHT, BULK, DENSITY, LOT COVERAGE, YARDS AND OPEN SPACES

After the effective date of this ordinance, no building or other structure shall be erected or altered to exceed the height or bulk requirements of this ordinance; nor to accommodate a greater number of families than allowed by this ordinance; nor to occupy a greater percentage of lot area than allowed by this ordinance; nor to have narrower or smaller front yards, side yards, rear yards, or other open spaces than required by this ordinance; nor shall any building, structure or land be used in any other manner contrary to the provisions of this ordinance.

### SECTION 4.04 - COMPUTATION OF REQUIRED SPACES

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

### SECTION 4.05 - REDUCTION OF LOTS OR AREAS BELOW MINIMUM

No yard or lot existing at the effective date of this ordinance shall be reduced in dimension or area below the minimum requirements set forth in this ordinance.

#### SECTION 4.05

Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

#### SECTION 4.06 - CLASSIFICATION OF ADDED TERRITORY

All territory not included under the provisions of this ordinance which are later added to the zoning jurisdiction of the town shall be considered to be in the R-1 Low Density Residential classification until otherwise classified.

#### SECTION 4.07 - ONE PRINCIPAL BUILDING ON ANY LOT

Only one (1) principal building and its customary accessory buildings may be erected on any lot except as authorized in this ordinance for Group Development in Section 7.05.

#### SECTION 4.08 - LOT ACCESS REQUIREMENTS

All lots created after the passage of this ordinance must front on a publicly dedicated right-of-way. No structure requiring a building permit shall be erected on any lot which does not abut either a public right-of-way or a private street or easement at least 20 feet in width which was recorded by the County Register of Deeds prior to the effective date of this ordinance.

#### SECTION 4.09 - VISION CLEARANCE AT INTERSECTIONS

On a corner lot which abuts a state or town maintained right-of-way in any district no planting, structure, fence, wall or other obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on those street lines each of which is twenty-five (25) feet distance from the point of intersection.

#### SECTION 4.10 - WALLS AND FENCES

The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any wall or fence. However, within or abutting any Residential District, no wall or fence shall exceed six (6) feet in height within a front or side yard and in any Business or Industrial District no fence shall exceed eight (8) feet in height.

#### SECTION 4.11 - STRUCTURE EXCLUDED FROM HEIGHT LIMITATIONS

The height limits of these regulations shall not apply to a church spire, belfry, cupola and dome or ornamental tower not intended for human occupancy, monument, water tower, observation tower, transmission tower, chimney, smoke stack, conveyor, flag pole, radio or television tower, mast or aerial, parapet wall not extended more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances.

#### SECTION 4.12 - REDUCTION OF FRONT YARD SETBACK REQUIREMENTS

In any Residential District, where the average setback distance for existing buildings on all lots located wholly or partly within two hundred (200) feet of any lot, and within the same zoning district and fronting on the same side of the same street as that lot, is less than the minimum setback required in the zoning district, the setback on that lot may be less than the required setback, but not less than the existing average setback distance for all lots within the two hundred (200) feet and in no case shall the setback be less than fifteen (15) feet. When lots within two hundred (200) feet are vacant, those vacant lots shall be considered as having the minimum required setback for the purpose of computing an average setback distance.

#### SECTION 4.13 PROPERTY LINES-PROJECTED

In any district abutting Back Creek or Bath Creek, the property line or lot line shall be considered the recorded line on the plat plan plus the imaginary extension of that property line from the point at which the property line touches the creek's high water mark, to the middle of the main channel. Under this provision all future location of public, or private piers, walkways, boat slips or other structures, shall be not less than 10 feet from such imaginary property line as extended into the creek.

SECTION 4.14 COMPLIANCE WITH STATE GUIDELINES FOR AREAS  
OF ENVIRONMENTAL CONCERN

Prior to the issuance of any initial zoning permit, zoning change permit, or conditional use permit, the zoning administrator and local AEC Permit officer in consultation with the State AEC Field Consultant, shall determine whether the proposed use or structure is located in an Area of Environmental Concern. This determination shall result from an on-site investigation. If the proposed use or structure is located in an Area of Environmental Concern, the zoning administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the State Guidelines for Areas of Environmental Concern prior to issuing any zoning permit.

4:15 CERTIFICATION OF ZONING AND CAMA AREAS  
OF ENVIRONMENTAL CONCERN CONSISTENCY

On \_\_\_\_\_ (date) the \_\_\_\_\_ (town/county) of \_\_\_\_\_  
considered \_\_\_\_\_ initial zoning/rezoning/or conditional use \_\_\_\_\_ of a tract/parcel of  
land located at \_\_\_\_\_  
\_\_\_\_\_ and owned by \_\_\_\_\_.

This certifies that the tract/parcel in question is/is not \_\_\_\_\_ located in  
an Area of Environmental Concern, based on an on-site investigation by the local  
AEC Permit Officer, the local zoning enforcement officer, and in consultation with  
the state AEC Field Consultant.

This further certifies that if the tract is, in part or totally, in an Area  
of Environmental Concern, all proposed uses or structures in the AEC will comply  
with development standards of the State Guidelines for Areas of Environmental  
Concern.

\_\_\_\_\_  
AEC Permit Officer

\_\_\_\_\_  
Zoning Enforcement Officer

\_\_\_\_\_  
Date

## ARTICLE V. NON-CONFORMITIES

### SECTION 5.01 - INTENT

Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conformities to continue until they are removed. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

### SECTION 5.02 - REGULATION OF NON-CONFORMITIES

#### A. Non-Conforming Lots of Record

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is

## SECTION 5.02

located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment as established in Article XI of this ordinance.

2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of that parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

### B. Non-Conforming Uses of Land or Water

Where, at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where the use involves no individual structure with a replacement cost exceeding \$1,000, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or water surface area than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot; parcel or water other than that occupied at the effective date of adoption or amendment of this ordinance;
3. If any such non-conforming use of land or water ceases for any reason for a period of more than 30 days, any subsequent use of the land shall conform to the regulations specified by this ordinance for the district in which the land is located.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with any non-conforming use of land or water.
5. Normal maintenance and repair of a structure occupied by a non-conforming use is permitted provided it does not increase the non-conforming use.

C. Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on the lot, or other requirements concerning the structure, the structure may remain so long as it remains lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 75 percent of its replacement cost at time of destruction, it may be reconstructed at no greater non-conformity than at the time of such destruction, and otherwise shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. A non-conforming mobile home on an individual lot outside of a mobile home park may not be replaced except by a conforming dwelling. A non-conforming mobile home may not be enlarged or altered externally in any way.

D. Non-Conforming Uses of Buildings or of Buildings and Premises In Combination

If lawful use involving individual buildings with a replacement cost of \$1,000 or more, or of building and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:



SECTION 5.02

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for that use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any non-conforming structure or use of structures may be changed to any conforming use, or, with the approval of the Town Board of Commissioners, to any use more in character with uses permitted in the district. In permitting such a change, the Board of Commissioners must find that the proposed use is more appropriate or equally as appropriate to the district as the existing non-conforming use and shall require appropriate conditions and safeguards necessary to ensure that the change is in keeping with provisions and spirit of this ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

## SECTION 5.02

6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 75 percent of the replacement cost at time of destruction.

### E. Repairs and Maintenance

1. Normal maintenance and repair of a structure occupied by a non-conforming use is permitted provided it does not expand the non-conforming use.
2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
3. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.

### F. Uses Under Conditional Use Provisions Not Non-Conforming

Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

## ARTICLE VI. SCHEDULE OF DISTRICT REGULATIONS

### SECTION 6.01 - R-1 LOW DENSITY RESIDENTIAL DISTRICT

#### A. Intent

The R-1 District is intended to encourage the development of permanent low-density residential neighborhoods. These districts are located primarily in areas which are protected from more intensive uses of the land.

#### B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings
2. Customary accessory buildings including private swimming pools and tennis courts.
3. Mobile home provided it is blocked and anchored according to the N.C. Building Code for mobile homes in a hurricane area.
4. Family Care Homes.

#### C. Conditional Uses Permitted

The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as provided in Article IX:

1. Churches and cemeteries
2. Fire stations, schools and other public buildings
3. Home occupations under the provisions of Section 7.07.
4. Mobile home parks under the provisions of Section 7.04.
5. Non-commercial amphitheaters on sites of not less than five (5) acres.
6. Private clubs on sites of not less than two (2) acres including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto provided that there is no open commercial activity and no sign other than a directional sign is allowed.

SECTION 6.01

7. Public utility facilities (must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use).
8. Home Occupation

D. Dimensional Requirements for R-1 Low Density Residential Districts.

1. Minimum lot size: 20,000 square feet
2. Minimum lot width: 75 feet  
(measured at the building setback line)
3. Minimum front yard: 25 feet
4. Minimum side yard: 10 feet  
Except that the side yard adjacent to the street on a corner lot must be at least 20 feet.
5. Minimum rear yard: 25 feet
6. Maximum allowable lot coverage by principal use and all accessory structures: 30%
7. Height limitation: 35 feet.

## SECTION 6.02 - R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

### A. Intent

The R-2 District is intended to encourage the development of permanent moderate density residential neighborhoods. These districts are generally served by a higher level of public facilities including, at a minimum, public water, paved streets, and storm drainage.

### B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings (not to include mobile homes).
2. Customary accessory buildings including private swimming pools.
3. Duplexes (but excluded from the historic district).
4. Family Care Homes

### C. Conditional Uses Permitted

The following uses are permitted subject to the requirements of this district, additional regulations and requirements imposed by the Board of Commissioners as provided in Article IX:

1. Churches and cemeteries.
2. Fire stations, schools, and other public buildings.
3. Home occupations under the provisions of Section 7.07.
4. Private clubs on sites of not less than two (2) acres including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto provided that there is no open commercial activity and no sign other than a directional sign is allowed.
5. Public utility facilities (must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use).
6. Townhouse developments under the provisions of Section 7.05 with a density of not more than eight (8) dwelling units per acre (but excluded from the historic district).
7. Home Occupations.

SECTION 6.02

D. Dimensional Requirements for R-2 Medium Density Residential District

1. Minimum lot size: 20,000 square feet. Except that if served by an approved public or community water or sewage disposal system, lot size may be reduced to 10,000 square feet. Duplexes must have 30,000 square feet minimum.
2. Minimum lot width: 50 feet  
(measured at the building setback line)
3. Minimum front yard: 15 feet.
4. Minimum side yard: 10 feet  
Except that a side yard adjacent to the street on a corner lot must be at least 15 feet.
5. Minimum rear yard: 20 percent of lot depth.  
Except that no rear yard shall be required to exceed 20 feet in depth.
6. Maximum allowable lot coverage by principal use and all accessory structures: 30 percent.
7. Height limitation: 35 feet.

SECTION 6.03 - B-1 CENTRAL BUSINESS DISTRICT

A. Intent

The B-1 District is established to provide for a centrally located commercial trade and services area for the town. These regulations are designed to encourage the continued use of land for commercial purposes and to permit concentrated development of the district while maintaining a substantial relationship between the intensity of land use and the capacity of utilities and streets.

B. Permitted Uses

The following uses shall be permitted by right:

1. Offices including:

- a. business
- b. financial
- c. governmental
- d. medical and professional

2. Primary retail stores, including:

- a. books
- b. cameras
- c. candy
- d. clothing
- e. craft goods
- f. dry goods
- g. drugs
- h. flowers
- i. gifts
- j. hardware
- k. hobby goods
- l. jewelry
- m. leather goods
- n. magazines
- o. musical instruments
- p. notions
- q. sporting goods
- r. toys
- s. food stores

3. Secondary retail stores, including:

- a. antiques
- b. household appliance

## SECTION 6.03

c. furniture stores

4. Service establishments, including:

- a. barber and beauty shops
- b. cafeterias
- c. dry cleaning and laundry pick-up stations, including laundromats
- d. parking lots
- e. restaurants
- f. shore repair
- g. day care nursery
- h. motels with less than 6 units

5. Single-family dwellings only (not to include mobile homes or trailers) according to the dimensional requirements of the R-2 Residential District.

6. Apartment units only on the second floor of principal buildings containing a permitted or conditional use.

7. Customary accessory uses and structures.

8. Building contractor's office and storage areas.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as provided in Article IX.

- 1. Public utility facilities.
- 2. Churches and cemeteries
- 3. Fire stations, schools, and other public buildings.
- 4. Group Development under the provisions of Section 7.05

D. Dimensional Requirements for Business Lots in the Central Business District

- 1. Minimum lot size: Commercial lots shall be of sufficient size to meet the requirements of the County Health Department unless served by public water and sewer and to provide adequate siting for structures. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone.



## SECTION 6.03

2. Minimum front yard: 10 feet  
Except that if a paved sidewalk is provided, none is required.
3. Minimum side yard: 10 feet  
No side yard required if commercial building constructed with a common wall. A side yard of 10 feet is required adjacent to the street on a corner lot.
4. Height limitation: 35 feet.

## SECTION 6.04 - B-2 GENERAL BUSINESS DISTRICT

### A. Intent

The B-2 District is established to provide for the development of business facilities to furnish a broad range of services and commodities for the permanent community and visitors. Must front state numbered road.

### B. Permitted Uses

The following uses shall be permitted by right:

1. All permitted uses listed in Section 6.03 B of the B-1 Central Business District
2. Building supply and equipment sales
3. Plumbing supply and equipment sales
4. Cabinet and woodworking shops
5. Motels and hotels
6. Building contractors' offices and storage areas.

## SECTION 6.04

7. Funeral Homes
8. Farm machinery supplies, sales, and repairs
9. Ice manufacture and sales

### C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as provided in Article IX.

1. Automobile service station, provided that no building or storage tank shall be located within fifty (50) feet of a residential use or district, that there will be no storage of wrecked or abandoned cars, and that no portion of a service station building, equipment or gas pumps shall be nearer than twenty-five (25) feet to any right-of-way.
2. Public utility facilities
3. Outdoor entertainment activities including amusement parks rides, miniature golf courses, and other similar activities may be permitted subject to other requirements of this ordinance and provided the following conditions are met:
  - a. The site shall not be located closer than 500 feet to any residential zoning district.
  - b. Paved parking shall be provided as required in Section 7.01.
  - c. Holding lanes shall be provided for automobiles entering and leaving the site to minimize traffic congestion on public roads.
  - d. Lighting shall be arranged and shielded so that light and glare is directed away from surrounding property.

SECTION 6.04

- e. The boundaries of the entire site shall be buffered by dense vegetative planting or natural vegetation not less than eight feet in height and ten feet in width. Suitable plant types for a site not containing natural vegetation shall be those recommended for the area by the U.S. Department of Agriculture which will reach a matured growth of eight to ten feet within three years.
  - 4. Animal boarding kennel or veterinary clinic provided that all pens and kennels are in an enclosed, air-conditioned building and further provided that all unenclosed runs be set back not less than fifty (50) feet from any existing residential use or district.
  - 5. Indoor recreation including dance halls, poolrooms, bowling alleys, entertainment arcades and the like provided the site shall be no closer than 250 feet to any Residential District.
  - 6. Group Development under the provisions of Section 7.05.
  - 7. Automobile sales and service.
  - 8. Marinas (subject to the requirements of 7.09).
  - 9. Mobile homes or recreational vehicle display or sale.
  - 10. Boat display and sales.
- D. Dimensional Requirements for B-2 General Business District
- 1. Minimum lot size: Commercial lots shall be of sufficient size to meet requirements of the County Health Department unless served by public water and sewer; to provide adequate siting for structures; and to provide off-street parking, loading and maneuvering space for vehicles as required by Section 7.01 of this ordinance. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone.
  - 2. Minimum front yard: 15 feet
  - 3. Minimum side yard: 10 feet  
An additional 5 foot yard adjacent to the street is required for a corner lot.
  - 4. Minimum rear yard: 20 feet.
  - 5. Maximum allowable lot coverage by principal use and all accessory structures: 60%
  - 6. Height limitation: 35 feet

## SECTION 6.05 I-L LIGHT INDUSTRIAL DISTRICT

- A. Intent. To provide an industrial district in which each such permitted use shall be a compatible neighbor to adjoining properties by controlling noise, odor, glare, smoke, dust, liquid wastes, radiation, and other adverse environmental effects caused by the operation of such uses. It is further the intent of this section to state the conditions of construction and operation for industrial district uses.

In many cases, the relation of a prospective use to all these performance standards cannot be judged properly at the time of issuance of a certificate of compliance. In such cases, the recipient of the certificate of compliance should note that these performance standards are a continuing obligation and that all uses shall operate in compliance with these standards.

B. Permitted Uses.

1. Bottling plant;
2. Books, printed matter distribution;
3. Inside fabrication;
4. Commercial greenhouses;
5. Ice manufacturing;
6. Laboratory research;
7. Newspaper publishing;
8. Radio/TV studio;
9. Warehouse storage;
10. Tire recapping and sales;
11. Furniture refinishing/upholstering;
12. Wholesale, or retail sales or manufacturing with operation conducted and merchandise stored entirely within a building and not otherwise listed above.

- C. Conditional Uses. The following uses shall be permitted subject to the requirements of this district and additional regulations and standards imposed by the Board of Commissioners as provided in Section 7.09, Section 9.0 and Section 12.04 of this ordinance.

SECTION 6.05

1. Energy facilities utilizing a land area of greater than seven (7) acres, to include energy producers, synfuel operations, and public utilities, subject to the following regulations:
  - a. Minimum lot area: seven (7) acres;
  - b. When a side and/or rear yard adjoins a residential district, the required rear and/or sideyard shall be a minimum of fifty (50) feet, such area shall be landscaped with evergreens and maintained by the owner.
  - c. Exterior lighting fixtures shall be shaded so that no direct light is cast upon property located in a residential district.
  - d. All outdoor storage areas shall be screened from view of abutting residential districts by solid continuous walls or fences or by solid appearing evergreen hedges. Such screen walls or fences shall be constructed not less than six (6) feet high, and hedges shall be six (6) feet high within two (2) years after planting.
  - e. The issuance of any certificates of compliance shall not be permitted until a site plan showing the proposed development has been approved by the Planning Board as set out in Section 7.09 of this ordinance.

D. Dimensional Requirements

1. Minimum lot size: no minimum lot size is specified. Lot sizes shall be of sufficient size to meet the requirements of the county health department, unless served by public water and sewer.
2. Minimum front yard: 25 feet.
3. Minimum side yard: 25 feet where adjoining a residential district, 10 feet where adjoining all other districts.
4. Minimum rear yard: 25 feet where adjoining a residential district, 10 feet where adjoining all other districts.
5. Building height limitation: 35 feet.

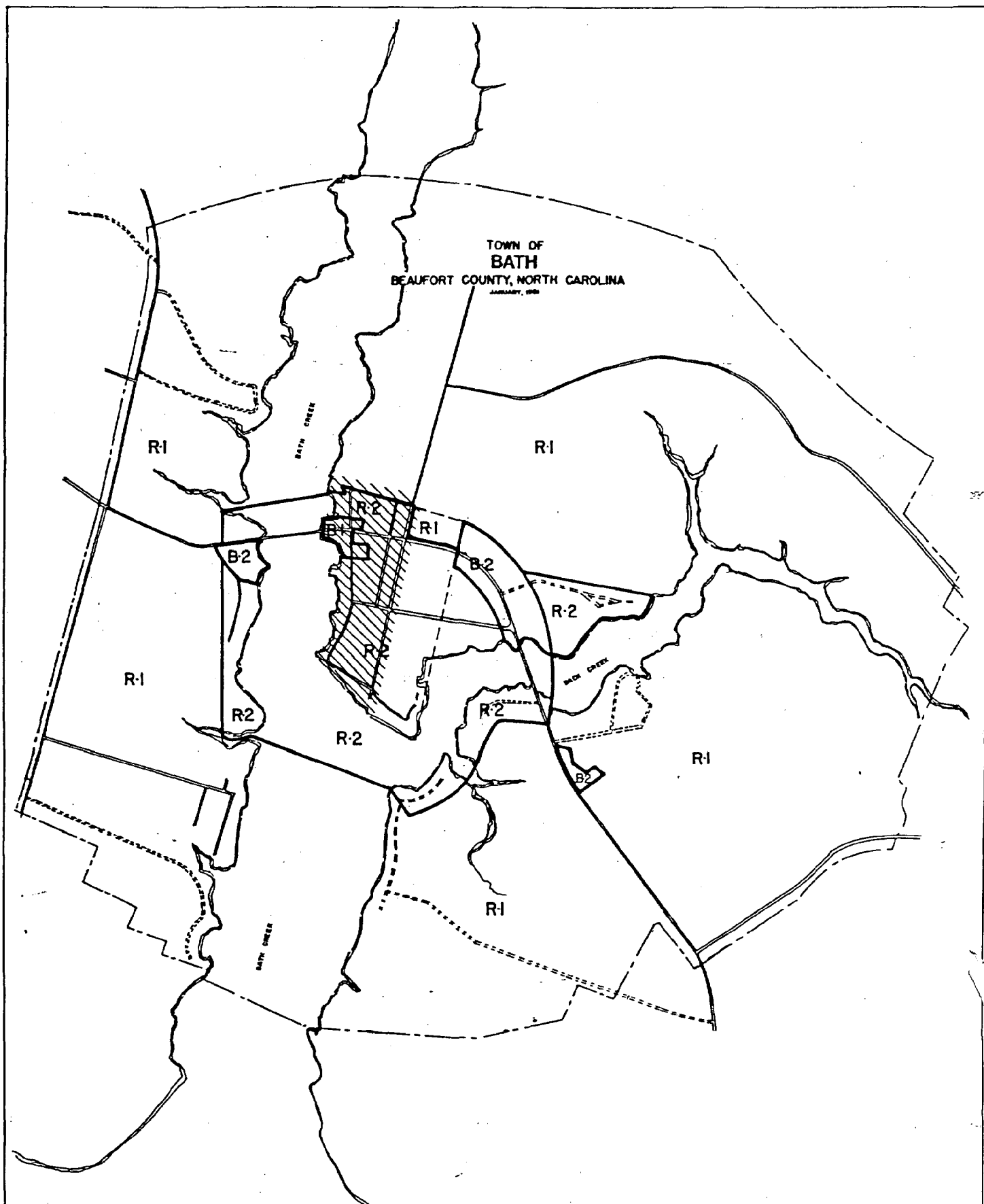
E. Parking. See Section 7.01 of this ordinance.

F. Signs. See Section 7.02 of this ordinance.

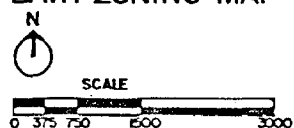
G. Construction and Operation Standards.

SECTION 6.05

1. Noise. Industrial noise shall be measured on any property line of the tract on which the industrial operation is located. Noise shall be muffled so as not to become objectionable from any residential districts, due to intermittent beat frequency, shrillness, or intensity.
2. Odors. Any activity carried on upon the premises shall not create any obnoxious, offensive, harmful, or annoying odor that shall interfere with adjoining property or occupants of any citizen within the zoning district.
3. Glare. Glare, whether direct or reflected, such as from floor-lights, or high temperature processes, and as differentiated from general illuminations, shall not be visible at any property line.
4. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.
5. Vibration. Vibration shall not be discernible at any property line to the ordinary human sense of feeling for three minutes or more duration in any one hour.
6. Smoke. Measurement shall be at the point of emission. The Ringleman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. Smoke not darker or more opaque than Number 1 on said chart may be emitted except that smoke not darker or more opaque than Number 2 on said chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible grey smoke, shall apply to visible smoke of a different color but with an equivalent apparent capacity.
7. Dust. Measurement shall be at the point of emission. Solid or liquid particles shall not be measurable in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.
8. Gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are harmful to health, corrosive or are obnoxious to the citizens of the zoning district.
9. Hazard. Any industrial operation shall be carried on with reasonable precautions against fire and explosive hazards.



# BATH ZONING MAP



- |                                |                                     |
|--------------------------------|-------------------------------------|
| R-1 LOW DENSITY RESIDENTIAL    | /// HISTORIC DISTRICT               |
| R-2 MEDIUM DENSITY RESIDENTIAL | — DISTRICT BOUNDARIES               |
| B-1 CENTRAL BUSINESS           | — TOWN LIMITS                       |
| B-2 GENERAL BUSINESS           | - - - EXTRATERRITORIAL JURISDICTION |

10. Electrical radiation. No electrical radiation shall adversely affect at any point operations or equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
11. Waste. All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the water quality standards applicable to the classification assigned to the receiving waters by the State of North Carolina. Approval by all appropriate federal, state, and local agencies of all plans for disposal of waste shall be required before the issuance of any certificate of compliance.

Failure to comply with any standards contained in this Section shall be deemed a violation of this ordinance punishable under Article IX.



## ARTICLE VII. GENERAL PROVISIONS AND SUPPLEMENTARY REGULATIONS

### SECTION 7.01 - OFF-STREET PARKING REQUIREMENTS

At the time of erection of any structure, or at the time any structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking space shall be provided according to the requirements of this ordinance.

#### A. General Provisions

1. Each parking space shall have a minimum length of twenty (20) feet and a minimum width of ten (10) feet except for angular parking as specified under Section 701.D. It shall be vehicular access to a publicly dedicated street.
2. With the exception of required spaces for single-family and two-family dwelling units, sufficient maneuvering space shall be provided so that no vehicle will be required to back into the public right-of-way.
3. No parking space for multi-family residential use shall be located in the required front yard.
4. Required off-street parking spaces are permanent areas and shall not be used for any other above ground purpose. Removal or elimination of a required parking space shall immediately revoke the occupancy permit of the use for which the parking space is required.
5. For uses not specifically mentioned, off-street parking requirements shall be applied by the Zoning Administrator based upon requirements for similar uses listed in this ordinance.
6. All space requirements which are based upon employment shall be computed on the basis of the greatest number of persons on duty at any one period during the day or night.
7. Each application for a certificate of zoning compliance or certificate of occupancy submitted to the Zoning Administrator shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this Section are met.

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8. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that one-half of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
9. If the off-street parking space required by this ordinance in any district except a Residential District cannot be reasonably provided on the same lot on which the principal use is located, the space may be provided on any land within four hundred (400) feet of the main entrance to the principal use. That land shall be used for no other purpose so long as no other adequate provisions of parking space meeting the requirements of this ordinance have been made for the principal use. In such cases, the applicant for a permit for the principal use shall submit with his application for a building permit an instrument duly executed and acknowledged, which subjects the land to parking use in connection with the principal use for which it is made available for a period of 20 years with an option for renewal for an additional period of 20 years. The applicant shall cause the instrument to be registered in the office of the County Register of Deeds.
10. Off-street parking space required by a use permitted in any Residential District shall be provided on the same lot with the use by which it is required. Off-street parking space in conjunction with commercial and industrial uses in other districts shall not be permitted in a Residential District.

B. Requirements for Parking Lots

Where parking space for five (5) or more cars is provided or required, the following provisions shall be complied with:

## SECTION 7.01

1. Yards - No parking lot shall be located closer than five (5) feet to a public right-of-way. The area between the parking lot and street right-of-way shall be planted and maintained in lawn or other appropriate planting, or shall be improved otherwise as approved in site plan review.
2. Curb Bumpers - The required front and side yards shall be set off from the parking area by a fixed curb of masonry or wood, not less than six (6) inches or more than two (2) feet high.
3. Lighting - Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
4. Surfacing - All parking lots shall be provided and maintained with a paved or gravel surface and with drainage facilities adequate to provide safe and convenient access in all weather conditions.
5. Drainage - Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural water course or a drainage easement.
6. Markings - Each parking space shall be marked off and maintained so as to be distinguishable.
7. Entrances - On all corner lots, no vehicular openings shall be located at closer than fifteen (15) feet from the point of intersection of the established street right-of-way lines. No entrance or exit on any lot shall exceed thirty (30) feet in width at the property line, or forty (40) feet at the curb line. There shall be a minimum distance between one-way driveways of twenty-five feet measured along the curb line.
8. Internal Circulation - The internal circulation plan of parking lots shall be approved by the Zoning Administrator.

## SECTION 7.01

### C. Minimum Parking Requirements

The number of off-street parking spaces required by this section shall be provided on the same lot with the principal use except as provided in Subsection (A)(10) above, and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum. Accessory buildings shall be included with principal buildings in measurement of gross floor area for determining parking requirements. Gross floor area shall be measured from the outside walls of all structures. Where a fraction of a space is required by this ordinance the next whole number shall be provided. In addition, a developer shall evaluate his own needs to determine if they are greater than the minimum specified by this ordinance

SECTION 7.01

1. Residential and  
Related Uses

Single-family detached  
dwelling units and town  
houses:

Multi-family residence  
Group Housing Projects  
and Condominiums:

Hotel, Tourist home,  
motel, motor court,  
rooming or boarding house:

Doctor's or dentist's  
office in own residence:

Home occupation:

Required Parking

Two (2) parking spaces for  
each dwelling unit.

1.5 parking spaces on the  
same lot for each unit.

1.25 parking spaces for  
each room to be rented plus  
one (1) additional parking  
space for each three (3)  
employees.

Three (3) parking spaces  
per doctor in addition to  
residence requirements.

One (1) parking space for each  
employee in addition to resident  
requirements.

2. Public and Institutional  
Uses

Hospital:

Clinic:

Required Parking

One (1) parking space for each  
two (2) beds intended for patient  
use, one (1) space for each resi-  
dent physician and one (1) space  
for each two (2) employees.

Ten (10) parking spaces minimum  
plus five (5) parking spaces for  
each doctor assigned plus one  
parking space for each employee

SECTION 7.01

Public and Institutional  
Uses

Required Parking

Nursing Home:

One (1) parking space for each five (5) beds intended for patient use, and one (1) space for each three (3) employees.

Churches:

One (1) parking space for each four (4) seats in the sanctuary.

Elementary School and  
Junior High School:

One (1) parking space for each classroom and administrative office.

Senior High School

One (1) parking space for each five (5) students for which the building was designed plus one (1) parking space for each classroom and administrative office.

Stadium:

One (1) parking space for each three (3) spectator seats.

Auditorium or  
Amphitheater:

One (1) parking space for each three (3) seats.

Public or Private Clubs:

One (1) parking space for each two hundred (200) square feet of gross floor space.

Public Utility  
Buildings:

One (1) parking space for each employee. With customer service facilities, a minimum of five (5) additional spaces.

3. Retail and Office Uses

Required Parking

General or Professional  
Offices and Banks (other  
than doctors, dentists.  
See clinic req.)

One (1) parking space for each two hundred (200) square feet of gross floor space plus one (1) space for each two (2) employees.

## SECTION 7.01

### Retail and Office Uses

Roadside stands, plant nurseries, outdoor concessions, sightseeing rides, automobile sales lots and similar activities involving outdoor display of merchandise or services:

Marinas:

Restaurant, Cafe or Public Eating Place:

Drive-In Restaurant or Refreshment Stand:

Furniture, Appliance and Grocery Stores:

Indoor entertainment facilities including bowling alleys, dance halls, skating rinks, amusement arcades and similar facilities:

Outdoor entertainment facilities including amusement parks, miniature golf course, and similar facilities:

### Required Parking

Minimum of five (5) parking spaces and one (1) parking space for each five hundred (500) square feet of gross ground area exclusive of the area required for parking.

Adequate triple length parking spaces should be provided for each boat launched and one space for each employee on the largest shift.

One (1) parking space for every three (3) customer seats, plus one (1) additional parking space for each three (3) employees.

Thirty (30) parking spaces in addition to the requirements for a restaurant, cafe or public eating place.

One (1) parking space for each 500 square feet of gross floor area.

One (1) parking space for each 100 square feet of gross floor area and one (1) additional space for each two (2) employees.

One (1) parking space for each one hundred (100) square feet of gross ground area exclusive of the area required for parking and buffering and one (1) additional space for each two (2) employees.

SECTION 7.01

Retail and Office Uses

Theaters:

Funeral Homes:

Retail uses not  
otherwise listed:

Required Parking

One (1) parking space for each  
three (3) seats in the auditorium.

One (1) parking space for each  
four (4) seats in the chapel  
or parlor.

One (1) parking space for each  
two hundred (200) square feet  
of gross floor area, plus one  
(1) for each employee.

4. Wholesale Uses and  
Warehouses

Wholesale uses:

Industrial use:

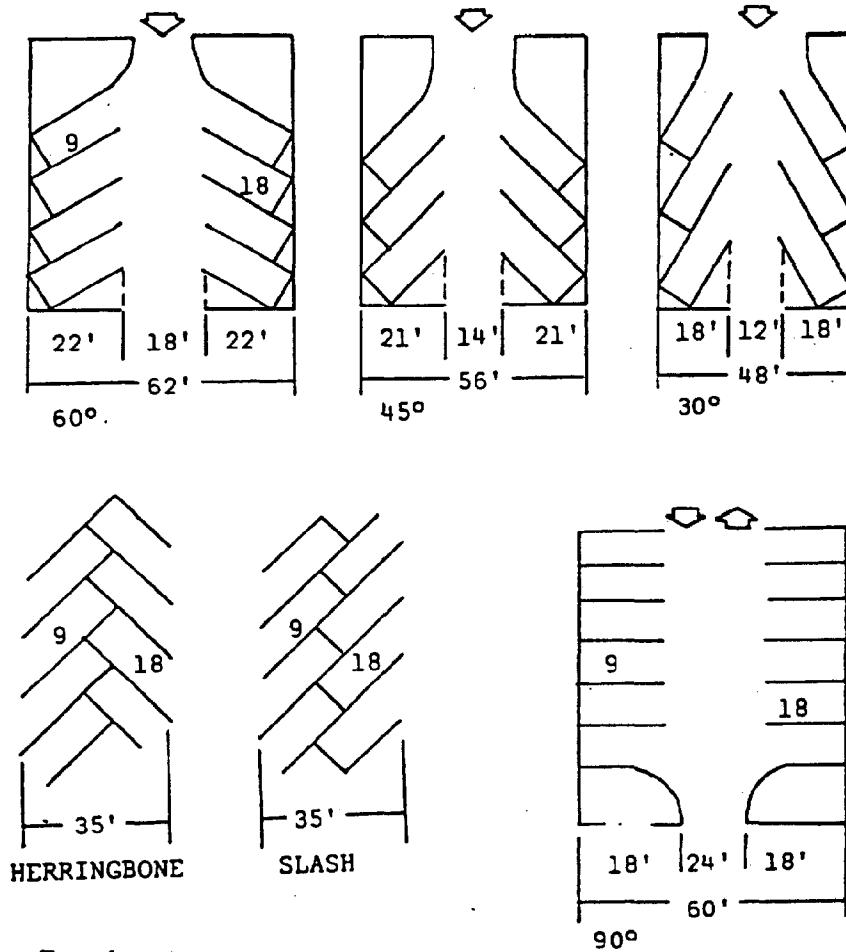
Required Parking

One (1) parking space for  
each employee on the largest  
shift.

Two (2) parking spaces for each  
three (3) employees on the  
largest shift.



D. PARKING STANDARDS:



Note: Turning Radii=15'min.

◀ traffic flow

D. Off-Street Loading

Where off-street loading space is required under the dimensional requirements of a particular district, one or more loading berths shall be provided for standing, loading and unloading operations either inside or outside a building and on the same or adjoining premises with every building erected after the enactment of this ordinance in accordance with the requirements of the following table. A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and a 14 foot overhead clearance. A loading space need not be necessarily a full berth but shall be sufficient to allow normal loading and unloading operations appropriate to the property served. The Zoning Administrator shall determine the sufficiency of loading space but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

## SECTION 7.01

### Use Classification

### Space Requirements

Retail operation, including restaurant and dining facilities within hotels and office buildings, with a total usable floor area of 20,000 square feet or more devoted to that purpose.

One (1) loading berth for every 20,000 square feet of floor area.

Retail operations, and all first floor non-residential uses, with a gross floor area of less than 20,000 square feet and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet.

A loading space (not necessarily a full berth) as defined in this Section next above.

Office buildings and hotels with a total usable area of 100,000 square feet or more devoted to such purposes.

One (1) loading berth for every 10,000 square feet of floor area.

Industrial and wholesale operations with a gross floor area of 10,000 square feet or over and as follows:

Minimum number of loading berths required:

10,000 - 40,000 square feet	- - - 1
40,000 - 100,000 square feet	- - - 2
100,000 - 160,000 square feet	- - - 3
160,000 - 240,000 square feet	- - - 4
240,000 - 320,000 square feet	- - - 5
320,000 - 400,000 square feet	- - - 6

Each 90,000 square feet above	
400,000 square feet	- - - - - 1

## SECTION 7.02 - REGULATIONS GOVERNING SIGNS

### A. Definition

1. For the purposes of this ordinance, a sign is any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panels designed to carry visual information. However, the following shall not be included in the application of these regulations:
  - a. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
  - b. Flags and insignia of any government except when displayed in connection with commercial promotion;
  - c. Legal notices, identification, informational, or directional signs erected or required by governmental bodies or public utilities;
  - d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
  - e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
2. Signs are defined as either on-site signs or off-site signs.
  - a. An on-site sign is one relating in its subject matter to the premises on which it is located, or to products, services, accommodations, or activities on those premises.
  - b. An off-site sign is any sign other than an on-site sign including signs erected for the provision of outdoor displays or display space as a business on a lease or rental basis.

### B. Number and Area

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to

## SECTION 7.02

form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than twenty-four (24) inches between each sign face.

### C. Building Permit Required

No sign shall hereafter be erected or attached to, suspended from, or supported on a building or structure nor shall any existing sign be structurally altered, remodeled or relocated until a certificate of compliance has been issued by the Zoning Administrator. No permit is required for signs enumerated in Subsection H.

### D. Material and Design

All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in Section 804 of the North Carolina Building Code, 1958, as amended.

### E. Inspection Required

Each sign may be subject to an annual inspection by the Zoning Administrator for the purpose of assuring that the structure is maintained in a safe condition. The fee for the annual inspection shall be in accordance with a regularly adopted fee schedule of the town. When a sign becomes structurally unsafe, the Zoning Administrator shall give written notice to the owner of the sign or the owner of the premises on which the sign is located, that the sign shall be made safe or removed within ten (10) days of receipt of notice.

## SECTION 7.02

### F. Illuminated Signs

All signs in which electrical wiring and connections are to be used shall require a permit and shall comply with the North Carolina Electrical Code and be approved by the Zoning Administrator.

### G. Prohibited Signs

1. No sign may be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER". No sign shall be erected or maintained which involves flashing or intermittent red, green or amber illumination or resembles a traffic control signal or sign.
2. No sign may obstruct corner visibility or visibility at a driveway between a height of two (2) feet and ten (10) feet.
3. No sign may be posted on any telegraph, telephone, or electric light poles or on any tree along any street except for approved street name signs.
4. No sign may obstruct ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building as required by law.
5. No sign may violate any provision of any law of the State of North Carolina relative to outdoor advertising.
6. No sign may be erected which contains, employs, or utilizes lights or lighting which rotates, flashes, moves or alternates except for otherwise approved time or temperature signs.
7. No sign may be located within a public right-of-way or within 30 feet of the center line of any public thoroughfare.

### H. Signs Permitted in Residential Districts

1. An indirectly lighted name plate or professional sign not over two (2) square feet in area may be permitted

## SECTION 7.02

with an approved home occupation.

2. Temporary real estate signs, not exceeding two (2) square feet in area, directing the way to premises which are for sale, rent, or lease; provided such signs shall be neatly painted or printed and shall be removed promptly when the property has been sold, rented, or leased.
3. Directional signs not over four (4) square feet in area indicating the location of churches, schools, hospitals, parks, scenic or historic places, or other places of general interest. Any such sign and mounting shall not exceed three (3) feet in total height.
4. One name sign or bulletin board not exceeding twelve (12) square feet for any permitted church, school or other non-commercial institution. The sign or board may be indirectly lighted and shall be set back at least fifteen (15) feet from the property line.
5. Temporary real estate signs, not exceeding six (6) square feet in area, advertising the sale, rent or lease of the premises on which located. However, these signs shall not be less than fifteen (15) feet from any street or lot line, shall not be illuminated, shall be neatly painted and maintained, and shall be removed promptly when the property has been sold, leased or rented.
6. Temporary non-illuminated signs not exceeding six (6) square feet in area advertising the general contractor, contractor, subcontractor, architect, landscape architect or other such professional persons or organizations engaged in or associated with the lawful construction, alteration, remodeling, or demolition of any building or use. However, these signs shall be limited to one for each organization involved and shall be set back from the property line at least fifteen (15) feet and shall be removed within thirty (30) days after the completion of the general contract.
7. A sign not to exceed two (2) square feet in area announcing the name, owner, or location of a dwelling.

## SECTION 7.02

8. Non-illuminated signs announcing the name of a subdivision or group housing project located on the premises at major entrances. However, these signs must be neatly constructed and maintained, limited to announcing only the name of the subdivision or group housing project and must not obstruct corner visibility.
9. Directional signs in parking lots if required by Section 7.01 of this ordinance.

### I. Signs Permitted in the B-1 Central Business District

#### 1. On-Site Signs

For each lot, in business use, one (1) square foot of business sign area for each two (2) lineal feet of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of fifty (50) square feet. No single sign may exceed 32 square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations:

- a. One (1) free standing sign per lot may be located either temporarily or permanently on the ground but shall not exceed thirty-two (32) square feet in area and shall not exceed twenty (20) feet in height above street grade. For a lot which has frontage on more than one public right-of-way there may be two (2) signs, neither of which may exceed sixty-four (64) square feet in area.
- b. Window signs shall be placed only inside a commercial building and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- c. Projecting signs may project from the building over the street right-of-way, alley or other public space provided the sign does not exceed beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corners.



SECTION 7.02

2. Off-Site Signs

Civic and benevolent club signs.

J. Signs Permitted in the B-2 General Business District

1. On-Site Signs

For each lot, in business use, two (2) square feet of business sign area for each lineal foot of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of three hundred (300) square feet. No single sign may exceed 128 square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations:

- a. Wall signs placed against the exterior walls of buildings shall not extend more than six (6) inches beyond the building wall surface and shall not exceed twenty (20) percent of the exposed finished wall surface area including openings.
- b. One (1) free standing sign per lot may be located either temporarily or permanently on the ground but shall not exceed sixty-four (64) square feet in area and shall not exceed twenty (20) feet in height above street grade. For a lot which has frontage on more than one public right-of-way there may be two (2) signs, neither of which may exceed sixty-four (64) square feet in area.
- c. Window signs shall be placed only inside a commercial building and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- d. Projecting signs may project from the building over the street right-of-way, alley or other public space provided the sign does not extend beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corners.

## SECTION 7.02

### 2. Off-Site Signs

Civic and benevolent club signs.

## SECTION 7.03 - OUT DOOR LIGHTING

Outdoor lighting for yards, signs, advertising structures, parking lots and other areas must be oriented or shielded so that the light and glare reflects away from streets and adjacent property.

## SECTION 7.04 - REGULATIONS GOVERNING MOBILE HOME PARKS

### A. General Regulations

#### 1. Location and Maintenance of Mobile Home Parks

No person may maintain, operate or occupy a mobile home park within the zoning jurisdiction of the town unless the park meets the requirements of this ordinance. If three (3) or more mobile homes are located on the same undivided lot or tract of land, they must meet the requirements of this section.

#### 2. Application for Mobile Home Park Permit

Application for a permit to develop, operate, alter or maintain a Mobile Home Park shall be made to the Zoning Administrator under the provisions of Section 9.05. The application for a permit shall include the following:

- a. A plan for the general layout of the mobile home park showing property lines and adjacent zoning and land use.
  - (1) The area to be used for the mobile home park showing property lines and adjacent zoning and land use;
  - (2) Driveways, entrances, exits, roadways and walkways;
  - (3) Location of mobile home spaces and buildings;
  - (4) Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas and utility rooms;

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- (5) Method and plan of sewage disposal;
- (6) Location and quantity of refuse containers;
- (7) Plan of water supply; and
- (8) Plan of electric lighting.

b. Plans and specifications for any building to be constructed on the site.

c. Further information may be required by the Zoning Administrator or County Health Department to enable them to determine if the proposed mobile home park will comply with the regulations of this ordinance and other applicable laws

3. Sanitary Facilities, Water Supply, Sewerage, Refuse Disposal and Utilities

In every mobile home park and related permanent building, all installations of plumbing and electrical wiring, and all gas and oil appliances shall comply with the provisions of the building, plumbing and electrical, heating and gas ordinances and codes and any other applicable regulations of the town. In addition, the following requirements must be met:

- a. Each mobile home space shall be provided with plumbing and electrical connections;
- b. Water Supply - A supply of pure running water for domestic purposes, from a source approved by the County Health Department shall be provided for every park. The water supply for each Mobile Home shall be obtained only from approved connections located on each mobile home space or inside each mobile home.
- c. Sewage Disposal - Every Park shall be provided with an adequate sewage disposal system constructed in compliance with the regulations of the County Health Department. All sewage wastes from each Park including wastes from toilets, and toilet rooms, showers, lavatories and wash basins and wastes from refrigerator drains, washing machines, sinks or faucets in mobile homes or on mobile home spaces shall be piped into the Park sewage disposal system. All sewage wastes from every trailer equipped with its own toilet facilities shall be piped into the Park sewage disposal system.

SECTION 7.04

- d. Refuse Disposal - All garbage and refuse in every Park shall be stored in suitable watertight and fly-tight receptacles in accordance with County Health Department requirements.

4. Registration

It shall be the duty of the operator of the mobile home park to keep an accurate register containing a record of all mobile home owners. The register shall contain the following information:

- a. Name and address of owner;
- b. License number and state of issue of each licensed vehicle;
- c. Space number in which the mobile home is parked.

B. Specifications for Mobile Home Parks

- 1. Every mobile home park shall be at least one (1) acre in area.
- 2. The amount of land for each individual mobile home space shall be determined by the Zoning Administrator after an investigation of soil conditions, the proposed method of sewage disposal, and proposed water system. However, in no case shall the size of a mobile home space be less than ten thousand (10,000) square feet.
- 3. Each mobile home space shall be at least forty (40) feet wide and clearly marked. There shall be at least fifteen (15) feet clearance between mobile homes including mobile homes parked end to end. No mobile home shall be located closer than fifteen (15) feet of any exterior boundary line of the park and no closer than fifteen (15) feet to the edge of any interior street.
- 4. All mobile home spaces shall abut upon an interior drive of no less than twenty (20) feet in width, which shall have unobstructed access to a public street or highway. It is the intent of this section that individual mobile home spaces shall not have unobstructed access to public streets or highways except through an interior drive. All interior drives shall be graded and maintained so that they are passable in all weather.
- 5. Dead end drives shall not exceed one thousand (1,000) feet in length. Any interior street designed to be permanently closed shall have a turnaround at the closed end.

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6. Drives shall intersect as nearly as possible at right angles and no drive shall intersect at less than seventy-five (75) degrees. Where a drive intersects a public street or highway, the design standards of the North Carolina Department of Transportation shall apply.
7. Suitable vehicular access for fire fighting equipment, delivery of fuel, removal of refuse, parking and removal of mobile homes and for other necessary services shall be provided.
8. All mobile home parks shall have one (1) or more recreation areas with a minimum size of twenty-five hundred (2,500) square feet which shall be easily accessible to all park residents. Additional recreation space shall be based upon a minimum of two hundred (200) square feet for each mobile home space within the park.

Recreation areas shall be located to be free of traffic hazards and should, where topography permits, be centrally located.
9. Parking space sufficient to accommodate at least two (2) automobiles shall be located on each mobile home space.
10. No mobile home park shall be located on ground that is subject to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded to prevent erosion.
11. The mobile home park shall have a visual buffer such as shrubbery or fencing not less than six (6) feet in height between the park and any adjacent residential uses other than mobile homes.
12. The area of the mobile home space shall be improved to provide an adequate foundation for the placement of the mobile home as required by the N.C. Building Code.
13. Each mobile home shall be securely anchored in accordance with the N.C. Building Code Standards for hurricane areas.
14. Each mobile home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a mobile home.

## SECTION 7.05 - GROUP DEVELOPMENT PROJECTS

Group development projects which consist of two or more principal buildings devoted to a common or similar use (to include new or converted condominiums) and constructed on a single lot, may be permitted as conditional uses in specified districts established by this ordinance under the provisions of Section 9.05, provided a mandatory preapplication conference is held between the Planning Board and the developer prior to filing the required application for review and approval of the project by the Board of Commissioners. This review and approval shall be required for every group development project. Site plans at a scale of not less than one (1) inch to one hundred (100) feet shall be submitted to show the size and location of all structures, streets, drives and parking spaces and their relationship to open spaces and adjacent properties. Group development plans shall also include a computation schedule expressed in acres which indicates the area and percentages of the site devoted to:

- |                  |                             |
|------------------|-----------------------------|
| 1. Total Area    | 2. Parking and Roadway Area |
| 3. Building Area | 4. Open Space               |

### A. Design, Standards, General

1. Lot Size: No group development may be established on a lot which is less than 20,000 square feet in area.
2. Street Access: Any building established as a part of a group development project which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to those vehicles by a paved driveway having a roadbed width of not less than 20 feet, exclusive of parking spaces.
3. Off-Street Parking and Loading Facilities: Off-street parking and loading facilities established in connection with a group development project shall be designed, located, and arranged so they will not interfere with the efficient flow of traffic through the area and will not interfere with the access of emergency and service vehicles.
4. Separation of Buildings: All buildings established as a part of a group development project shall be separated by not less than 20 feet.
5. Setback Requirements: Unless otherwise provided by this ordinance for a specific type of group development project buildings shall comply with the front yard, side and rear yard requirements established for the district in which located.

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6. Uses Permitted: In no case shall a use be permitted as a part of a group development project that is prohibited by this ordinance in the district in which the project is to be located.

### B. Design Standards - Group Housing Projects

In addition to the other standards set forth in this Section, a group housing project shall comply with the following additional requirements:

1. Setbacks: All buildings established as a part of a group housing project shall be set back not less than twenty (20) feet from all property lines.
2. Location: No dwelling structure established as a part of a housing project shall be located within twenty (20) feet of another dwelling structure within the development.
3. Open Space: Not less than twenty (20) percent of the total area of a group housing project must be permanent open space which shall not include any area covered by buildings, parking areas or streets.

### C. Areas, Facilities and Improvements for Common Use

Any area, facility or improvement which will benefit or be used in common by residents or tenants of a group development must be indicated on the site plan and specifically approved as part of the plan review under the following conditions:

1. It shall be made available in its improved state as set forth on the site development plan in accordance with an approved time schedule.
2. It shall be maintained in accordance with an approved maintenance plan specifying what the maintenance shall consist of, whose responsibility it shall be, and assuring satisfactory execution of maintenance.
3. Provisions to insure its continuing availability shall be included in the deed to each property to be served by that common area, facility, or improvement.

## SECTION 7.05

### D. Additional Information

Additional information may be required by the Planning Board or the Commissioners to determine the impact of the proposed development on the town.

### E. Approval of Site Development Plans

No building permit shall be issued in a group development until the Planning Board and Board of Commissioners have approved site development plans and reports for the development as a whole or stages deemed satisfactory in relation to total development. No structure or use other than as indicated in approved site development plans and reports shall be permitted.

### F. Modification of Approved Plans

After review by the Planning Board, the Board of Commissioners may permit changes in an approved site development plan, but only on a finding that such changes are in accord with applicable current regulations.

## SECTION 7.06 - CONVERSION OF EXISTING STRUCTURES TO CONDOMINIUM OWNERSHIP

Existing structures not in condominium ownership under the Unit Ownership Act of the State of North Carolina may be converted to unit ownership provided the owner or developer shall comply with all provisions of this ordinance requiring a building permit and site plan approval, as applicable, as in new construction, and further that before the existing structure may be converted to unit ownership in accordance with the North Carolina Unit Ownership Act, the structure shall meet all the requirements and standards of the current building code in effect in the town at the time the conversion is made.



## SECTION 7.07 - HOME OCCUPATIONS

Home occupations may be approved as conditional uses in residential districts by the Planning Board under the provisions of Section 9.05 provided the following conditions are met as well as any additional conditions and safeguards that may be required by the Board as conditions of their approval.

### A. Permitted Occupations

In the R-1 and R-2 Zones, home occupations in the same lot accessory to principal uses shall be permitted in the following categories:

1. Offices for professional, personal or business service, except medical or dental doctors;
2. Studios for arts, handicrafts or tutoring;
3. Shops for limited or custom production or minor repair service;
4. Headquarters for a craftsperson or salesperson;
5. Home baby-sitting;
6. Tourist homes, which may provide meals only for overnight guests.

### B. Conditions

Any such home occupation shall comply with the following limitations.

1. There may be no more than two (2) persons employed other than those residents on the premises.
2. No building shall be used as a headquarters for the assembly of employees for instructions or other purposes or to be dispatched for work at other locations;
3. No activities shall be allowed which involve the use, storage, milling or manufacture of highly combustible materials or internal combustion engines;
4. All aspects of the conduct of a home occupation shall be confined, contained and conducted within the dwelling;
5. Not more than 50% of the total floor area of the principal and accessory building may be used for a home occupation;

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6. Any home occupation which causes abnormal automotive or pedestrian traffic or which is objectionable due to unsightliness or emission of odor, dust, smoke, noise, glare, heat, vibration or similar causes discernible on the outside of any building containing such home occupation shall be prohibited;
7. Dimensions, power rating or weight of such equipment and tools used in the conduct of the home occupation shall not exceed that of normal household equipment and tools;
8. The premises shall at all times be maintained as residential in appearance, cleanliness and quietness;
9. Only one sign not to exceed two (2) square feet may be erected. The sign may be indirectly lighted;
10. Any materials used or any item produced or repaired on the premises shall not be displayed or stored so as to be visible from the exterior of the building;
11. Customer and client contact shall be primarily by telephone, mail, or in their homes and places of business and not on the premises of the home occupation, except for those home occupations which by their very nature cannot otherwise be conducted except by personal contact with clients;
12. Products made or sold shall be disposed of solely by delivery from the premises to the homes or places of business of customers;
13. Other than normal passenger automobiles, only one truck of no more than 8,400 lb. gross vehicle weight (GVW) is permitted to be operated, whether owned or rented, in connection with a home occupation. Such truck, if parked on the premises, shall be kept within a completely enclosed garage;
14. Instruction in music shall be limited to no more than two students at one time, and in crafts and dance, to no more than six students at one time;
15. Home baby-sitting shall be limited to the care of up to five children.

#### SECTION 7.08 - MOORING OF BOATS

Unattended mooring of boats within the public trust waters for a period of longer than seven (7) days, may present safety hazards for boat traffic and can interfere with existing public rights of access to, and use of, navigable waters or public resources.

For the purpose of this section, proper "mooring" shall mean that the boat is adequately secured to an existing pier, piling, or clearly visible sea buoy. "Unattended" shall mean that the owner/operator has not checked it within a seven day period.

The Zoning Administrator, upon consultation with the U.S. Coast Guard, shall make a finding whether an unattended mooring of a boat for a period longer than seven (7) days creates a hazard to the public safety and welfare. In the event that a hazard existing the Zoning Administrator shall then notify the owner of any boats, as per Section 9.07 of this Ordinance. Further, the Town Administrator may make a determination that the moored boat is a nuisance and order it moved from the location.

## SECTION 7.09 - REGULATIONS GOVERNING MARINAS

- A. Marinas, by this ordinance, are defined as private commercial, or public places which provide facilities for the launching and recovery of boats or any of the uses included in Section 7.09 B. below. Excluded from this definition are residential boat ramp facilities allowing access only and none of the permitted uses listed in 7.09 B.

B. Permitted Uses

Launching facilities, fuel supply facilities and accessory uses which are limited to restaurants, boat rentals and sales and service and water related recreational facilities. Dry and wet docking storage facilities are prohibited. Man-made development of canal channels and boat basins are prohibited except when accessibility by way of a launching ramp requires such.

C. General Regulations

A site plan shall be presented to the Planning Board demonstrating that the following criteria have been met.

1. Site Plans

- a. Number of parking facilities. Adequate on site parking facilities for vehicles and trailers shall be required for all boats launched.
- b. Marinas shall furnish adequate restroom facilities for all persons launching boats and lots shall be of sufficient size to meet requirements for adequate wastewater treatment of the County and State Health Department and in no case smaller than one acre.
- c. Building height limitation. The building height limitation is 35 feet.
- d. Minimum front yard. Minimum front yard is 10 feet.
- e. Minimum side yard is 15 feet. Side yard shall include a 7 to 10 foot buffer strip with planting.

2. Docks, Piers, and Ramps

- a. Docks, piers and ramps shall be so designed that they do not significantly interfere with water flows.
- b. Docks, piers, and ramps shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality.
- c. Piers and docks shall be designed to minimize adverse effects on navigation and public use of waters while allowing the applicant to provide for the launched boat adequate access to deep water.

- d. Piers and docks shall not extend more than 150 feet into Bath Creek and 100 feet into Back Creek or to a distance which assures access to deep water whichever is less.
- e. Docks and piers shall be designed so as to preclude the adverse effects of shading marsh vegetation. Structures which are built over vegetation marsh shall not exceed 5 feet in width.
- f. Pier and bulkhead construction and public offshore walkways shall be of construction quality described in the publication "Marinas-Recommendations for Design, Construction and Maintenance" by the National Association of Engine and Boat Manufacturers, Inc."
- g. No docking facility shall be constructed so that a secured boat will be closer than 30 feet from marshes designated as AEC's.
- h. No pier, dock or ramp shall be constructed parallel to a public highway or bridge closer than 150 feet.
- i. Multiple ramps. When more than one ramp is constructed at one facility, the ramps shall be constructed in parallel.
- j. No pier dock or ramp or any portion thereof shall be constructed so as to come closer than 15 feet from the adjacent property line. Under this provision, the adjacent property line shall be considered the recorded line on the tract plus the imaginary extension of that property line from the point at which the property touches the Creek's high water mark, to the middle of the main channel.

### 3. Launching Requirements

- a. No boats with open heads shall be launched in either Bath or Back Creek.

### 4. Dredging

Marinas which require dredging shall provide acceptance areas to accommodate disposal needs for future maintenance dredging in accordance with 15 NCAC 7H standards.

### 5. Facilities and Services

- a. All installments of plumbing and electrical wiring, and all gas and oil appliances shall comply with the provisions of the building, plumbing, and electrical, heating and gas ordinances and codes and any other applicable regulations of the town.
- b. Fuel pumps shall be equipped with back-pressure automatic shut-off nozzles.

- c. An adequate fresh water supply for patrons with boats is required.
- d. All commercial piers and marinas shall have installed pump-out facilities, either fixed or mobile, and have an adequate receiver into which raw sewage from the pump-out facility will be transferred. Acceptable receivers include a wastepipe connected to a septic tank or to a privately or municipally owned and operated wastewater treatment facility which has been properly approved by the agency having jurisdiction over such systems. Such pump-out facilities must be approved by the Beaufort County Health Department, N.C. Division of Health Services or the Division of Environmental Management. Marinas shall permanently display a sign at the marina indicating the location of said pump-out facility, listing the telephone numbers of local pump operators and other appropriate waste disposal information. Existing marinas are exempt until public disposal facilities are available.
- e. Trash disposal facilities shall be placed at convenient locations along piers and the marina grounds area and should be clearly marked.
- f. Plans shall be submitted to the Zoning Administrator which will show how the impact from pollutants likely to be generated by the operation of the marina and attendant vessels upon the natural systems will be minimized (e.g. providing grease and sediment traps for storm water runoff).
- g. Disposal facilities shall be provided for the disposal of oil, gas, paint and other petroleum products and boat bottom residue at the marina. Signs shall be posted at appropriate locations and clearly marked which state that open dumping of wastes, including wastewater and trash, except in proper recepticals, is prohibited, as is improper operation of motor-driven boats which contribute gas and oil pollution to the public trust waters.

6. Signs

Except as required above, signs shall be in accordance with section 7.01 of this ordinance.

7. Certificate of Occupancy Required

No building, pier or dock shall be occupied, structurally altered, erected or moved, or its use changed until a certificate of occupancy has been issued by the Zoning Administrator in accordance with Section 9.08 of the ordinance.

8. Violation

If the Zoning Administrator finds that any of the provisions of this Section are being violated, he shall address said violation according to Section 9.09 of this ordinance.

9. Management

The marina owner or authorized attendant or caretaker shall be in charge at all times to keep the marina, it's facilities and equipment in a clean, orderly, safe and sanitary condition.

## ARTICLE VIII. HISTORIC ZONING DISTRICT

### SECTION 8.01 - PURPOSE

The purpose of the Historic District is to promote the educational, cultural and economic welfare of the Town of Bath by preserving structures, sites, monuments, streets, squares and neighborhoods which serve as visible reminders of the history and cultural heritage of the town, thereby strengthening the economy of Bath by stabilizing and increasing property values and by encouraging new buildings that will be in harmony with the existing historic area.

### SECTION 8.02 - DISTRICT BOUNDARIES

The Bath Historic District boundaries are defined on the map referred to in Section 2.01 of this ordinance.

### SECTION 8.03 - PERMITTED USES HISTORIC DISTRICT - OVERLAY DISTRICT

The Historic District shall overlap and overlay existing zoning districts. All use, dimensional, and other requirements for each zoning district shall remain in effect with the additional requirement that, within the Historic District, a certificate of appropriateness shall be obtained prior to the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant fixtures, or outdoor advertising signs in the Historic District as required by Section 8.05 of this ordinance.



## SECTION 8.04 - HISTORIC DISTRICT COMMISSION

### A. Creation

There is hereby established the Bath Historic District Commission, to consist of seven (7) members appointed by the Bath Board of Commissioners and the Beaufort County Commissioners.

### B. Membership

#### 1. Tenure

Members of the Historic District Commission shall serve overlapping terms of three years. Initially, three (3) members shall be appointed for a term of three (3) years, two (2) members shall be appointed for two (2) years and, two (2) members may be appointed for one (1) year. A member may be reappointed for a second consecutive term but after three consecutive terms members shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second term.

#### 2. Representation

All members of the Historic District Commission shall reside within the zoning jurisdiction of the town of Bath. Five (5) members will be appointed by the Town Council of Bath and two (2) members will be appointed by the Beaufort County Commissioners to represent the extraterritorial jurisdiction of Bath. Those members appointed by the County Commissioners will be persons recommended by the Bath Town Council. A majority of the members shall have demonstrated special interest, experience, or education in history or architecture.

#### 3. Attendance of Meetings

Any member of the Historic District Commission who misses more than three (3) consecutive meetings shall lose his or her status as a member of the Commission and shall be replaced or reappointed by the Bath Board of Commissioners. Absence due to sickness, death or other emergencies of similar nature shall be recognized as approved absences and shall not effect the member's status on the Commission. In the event of a long illness or any other cause for prolonged absence, the member shall be replaced.

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### C. Meetings

The Historic District Commission shall establish a monthly meeting time, and shall meet at least annually and more often as it shall determine and require. All meetings of the Commission shall be open to the public.

### D. Rules of Procedure

The Historic District Commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by July 1st of each year to the Town Board. The Commission shall keep a record of its members' attendance, and of its resolutions, findings, and recommendations, which record shall be a public record.

### E. Authority and Powers

The Historic District Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this ordinance and Part 3A, Article 19 of Chapter 160A of the General Statutes of the State of North Carolina, including but not limited to the following:

#### 1. Review of Application for Certificate of Appropriateness

The Commission shall have authority to consider and grant or deny applications for certificates of appropriateness in accordance with Section 8.05 of this ordinance. As a basis for its review, the Commission may require an applicant to provide such photographs, architectural drawings and elevations or any other documentation which it may by rule prescribe and in its discretion deem reasonably necessary for the review of an application. Request for such documentation shall be made within 30 days of receipt of the application for certificate of appropriateness.

#### 2. Other Powers

The Historic District Commission shall have authority to act as or to establish an advisory group to give

#### SECTION 8.04

advice to property owners concerning the historic and aesthetic characteristics of their properties in the Historic District. The Commission may initiate and undertake any programs of information, research, or other activity relating to any matters under its jurisdiction; and it may contract, with the approval of the Town Council, for services or funds from the State of North Carolina and agencies or departments of the United States government. The Commission may request technical assistance and advice from any department of the Town of Bath. The Commission shall have authority to recommend to the Town Board and the State of North Carolina structures or sites of historic significance worthy of national, state or local recognition. The Commission shall cooperate, consult and advise with the Town Clerk and Town Board, the Beaufort County Historical Society and appropriate State agencies in matters affecting proposed policies, programs, personnel, finances, and acquisition and disposal of lands and properties relating to a total community historical program and to a long-range projected program for the development of the historical resources of the Town of Bath.

#### SECTION 8.05 - CERTIFICATE OF APPROPRIATENESS REQUIRED

After the designation of a Historic District, no exterior portion of any building or other structure (including stone walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor any type of outdoor advertising sign shall be erected, altered, restored or moved within that district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission. This certificate shall be required to be issued by the Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures as required in Article IX of this ordinance. A certificate of appropriateness shall be required whether or not a building permit is required. The Town of Bath and public utilities shall be required to obtain a certificate of appropriateness only when changes in

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character of public facilities, utility facilities, lighting, or public buildings are proposed.

### A. Exterior Architectural Features

For purposes of this ordinance, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, exterior architectural features shall be construed to mean the style, material, size and location of all such signs.

### B. Architectural Review Guidelines

It is the intention of these regulations to insure that buildings or structures in the historic district shall be in harmony with other buildings or structures located there. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of them or to impose architectural styles from particular historic periods, or to require that utility facilities be placed underground.

To provide reasonable standards to assist the Historic District Commission in its review of design, the following guidelines shall be considered, when relevant, in reviewing applications for a certificate of appropriateness:

- Lot coverage, defined as the percentage of lot area covered by principal and accessory structures.
- Setback, defined as the distance from the edge of the right-of-way to the building.
- Height, defined as building height.
- Land use as defined by zoning regulations.

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- Spacing of buildings, defined as the distance between adjacent buildings.
- Exterior building materials and roofing materials.
- Surface textures.
- The proportion of width to height of windows and doors within the facade.
- Utilization of local or regional architectural traditions such as porches, cupolas, and details.
- Roof form and pitch in relation to the facade.
- Shape and form of the building, and relationship of any additions to the main structure.
- Expression of architectural detailing.
- Orientation of the building to the street.
- Scale, determined by the size of units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space.
- Proportion of width to height of the total building facade.
- Effect on street trees.

### C. Required Procedures

#### 1. Application to Zoning Administrator

An application for a certificate of appropriateness shall be obtained from and filed with the Zoning Administrator. Applications for certificate of appropriateness shall be considered by the Historic District Commission at its next regular monthly meeting, provided they have been filed, complete in form and content, at least ten (10) calendar days before the regularly scheduled monthly meeting of the Commission;

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otherwise consideration may be deferred until the following monthly meeting.

### 2. Notification of Historic District Commission

Upon receipt of any application, the Zoning Administrator shall notify the Historic District Commission at least seven (7) calendar days before its regularly scheduled monthly meeting.

### 3. Notification of Affected Property Owners

Prior to issuance or denial of a certificate of appropriateness the Commission shall take such action as may reasonably be required to inform the owners or persons in charge of any property likely to be materially effected by the application, and shall give the applicant and other persons effected an opportunity to be heard.

### 4. Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

### 5. Issuance of Certificate of Appropriateness

If the Commission determines that the proposed construction, reconstruction, alteration, restoration or moving is appropriate, it shall approve the application and shall issue to the applicant a certificate of appropriateness.

### 6. Report to Zoning Administrator

Upon approval of an application and issuance of a certificate of appropriateness, the Historic District Commission shall promptly transmit a report to the Zoning Administrator stating that a certificate of appropriateness has been approved and issued.

### 7. Time Limits

If the Commission fails to take final action upon any application within sixty (60) days after the application

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for a permit is submitted to the Zoning Administrator, the application shall be deemed to be approved; except in cases where the applicant has not provided documentation as requested by the Commission and deemed by it to be reasonably necessary for the review of the application. In the event of an extension of the time limit by mutual agreement, the Historic District Commission shall notify the applicant and the owners or persons in charge of any property likely to be materially effected by the application of the date of reconsideration of the application, and the Commission shall give the applicant and such owners or other persons a chance to be heard. In the event that requested documentation is not submitted in support of an application, the Historic District Commission may delay consideration of the application until such time as the requested documentation is provided by the applicant.

### 8. Denial of Certificate of Appropriateness

If the Commission determines that a certificate of appropriateness should not be issued, it shall place upon its record the reasons for that determination and shall promptly notify the applicant of that determination, furnishing him a copy of its reasons and its recommendations, if any, as they appear in the records of the Commission.

### 9. Submission of New Application

If the Historic District Commission determines that a certificate of appropriateness should not be issued, a new application may be submitted on the proposed construction, reconstruction, alteration, restoration, or moving only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

### 10. Appeal of Decisions

An appeal may be taken to the Board of Adjustment from the Commission's actions in granting or denying the certificate, as set out in Section 11.04 of this ordinance. Any appeal from the decision of the

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Board of Adjustment in any case shall be heard by the Superior Court of Beaufort County.

### D. Review by the Department of Cultural Resources

The Department of Cultural Resources, acting through the agent or employee designated by its Secretary, or the North Carolina Advisory Council on Historic Preservation, shall, either upon the request of the Department or at the initiative of the Historic District Commission, be given an opportunity to review, comment and make recommendations upon the substance and effect of any application for a certificate of appropriateness. If any certificate is issued contrary to the recommendations of the Department, the Historic District Commission shall enter the reasons in the minutes of the meeting at which the action is taken, and a copy of the minutes shall be forwarded to the Department by the Commission's secretary. If the Department does not submit its comments or recommendations in connection with any application within thirty (30) days following receipt by the Department of any materials needed for its review of the application, whether such review is at the request of the Department or the Historic District Commission, the Commission and any city or county governing board shall be relieved of any responsibility to consider those comments and recommendations. In this case, the certificate of appropriateness may thereafter be issued without regard to the requirements of this program.

## SECTION 8.06 - INTERIOR ARRANGEMENT NOT CONSIDERED

The Historic District Commission shall not consider interior arrangement and shall take no action under this Article except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant fixtures, or outdoor advertising signs in the Historic District which would be incongruous with the historic aspects of the district.



SECTION 8.07 - CERTAIN CHANGES NOT PROHIBITED

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair or replacement or removal of any exterior architectural feature or structure or utility facility in the Historic District which does not involve a substantial change in design, material or outer appearance. Ordinary maintenance or repair include such activities as repainting, landscaping, replacement or worn or damaged parts, and replacement of mechanical or electrical installations. Furthermore, this article is not intended to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Zoning Administrator shall certify is required by the public safety because of an unsafe or dangerous condition. If the proposed change involves any of the preceeding activities or conditions a certificate of appropriateness will not be needed.

SECTION 8.08 - DELAY IN DEMOLITION OF HISTORIC BUILDINGS

After the designation of a Historic District, no building or structure within it shall be demolished or otherwise removed until the owner shall have given the Historic District Commission ninety (90) days written notice of his or her proposed action in order that the Commission may find a means of preserving the building. If the Historic District Commission finds that the building involved has no particular historic significance or value toward maintaining the character of the district, it may waive all or part of such 90-day period and authorize earlier demolition or removal.

## ARTICLE IX. ADMINISTRATION AND ENFORCEMENT

### SECTION 9.01 - ZONING ADMINISTRATOR

The Zoning Administrator designated by the Board of Commissioners shall administer and enforce this ordinance. He may be provided with the assistance of any other persons which the Board may direct. The Zoning Administrator shall have all necessary authority to administer and enforce the zoning ordinance, including the power to order in writing the correction of any condition found in violation of the ordinance, and the power to bring legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding.

### SECTION 9.02 - CERTIFICATE OF ZONING COMPLIANCE REQUIRED

No building or other structure shall be erected or moved, nor shall any existing building or structure be altered in any manner, unless a certificate of zoning compliance has been approved by the Zoning Administrator (and a building permit acquired from the County). The certificate shall expire by limitation, six (6) months from date of issuance if work specified by the certificate has not commenced. If after commencement the work is discontinued for a period of twelve (12) months, the certificate for it shall immediately expire. No work specified by any certificate that has expired shall then be performed until a new certificate has been secured. A fee for the certificate shall be paid to the town according to a regularly adopted fee schedule. (See also Section 4.14 and Section 4.15 of this ordinance).

### SECTION 9.03 - WATER SUPPLY AND SEWAGE DISPOSAL REQUIREMENTS

The Zoning Administrator shall not issue a certificate of zoning compliance for any use or structure requiring a water supply or sewage disposal or both unless the application is accompanied by approval in writing by the appropriate authority of the water supply and method of sewage disposal. If the use or structure is a marina or other commercial water-based project, no certificate of zoning compliance shall be issued without ascertaining conformance with Section 7.09 of this ordinance.

#### SECTION 9.04 - APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR PERMITTED USES

All applications for Certificate of Zoning compliance shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include any other information which may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; and the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot and on nearby lots; elevations of finished floors; and any other matters which may be necessary to determine conformance with and provide for the enforcement of this ordinance. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he has marked the copy either as approved or disapproved and attest to that by his signature on the copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Administrator.

#### SECTION 9.05 - APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR CONDITIONAL USES

The Board of Commissioners may approve certificates of zoning compliance for conditional uses in the Zoning Districts where conditional uses are specified by this ordinance. Applications for permits under Section 7.05, Group Development Projects and Section 7.06 Conversion of Existing Structures for Condominium Ownership shall also be processed under this section.

- A. Written application for a conditional use permit shall be submitted to the Zoning Administrator at least ten (10) days before the next regular monthly meeting of the Planning Board. The written application shall indicate the section of this ordinance under which a permit is being sought and shall contain the information required by the appropriate section and any other information which may be required to insure compliance with this ordinance.
- B. The Planning Board shall review the application for a conditional use permit and shall submit its recommendation as to approval or disapproval along with any additional conditions or safeguards it may consider necessary to the Board of Commissioners.
- C. When it is considered desirable by the Planning Board or the Board of Commissioners a public hearing may be held on any conditional use. Notice by means of a placard posted on the property concerned shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for

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which the conditional use is sought or his agent shall be notified by mail at least fifteen (15) days prior to the public hearing.

- D. Any party may appear in person or be represented by agent, or attorney.
- E. Before they may grant a certificate of zoning compliance for any conditional use, the Board of Commissioners shall make findings that: (1) the applicant has met the requirements of the ordinance; (2) granting the certificate will be in general conformity with the town's plan of development; (3) the proposed use will be compatible with the area in which it is to be located if developed under the conditions specified in the ordinance and those additionally required by the commissioners.
- F. In granting any certificate of zoning compliance, the Board of Commissioners may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of those conditions and safeguards, when made a part of the terms under which the certification is granted, shall be considered a violation of this ordinance and punishable under Article X of this ordinance. The Board of Commissioners shall prescribe a time limit within which the action for which the certificate is required shall be begun or completed, or both. Failure to comply within the time limit set shall void the certificate. If any of the conditions of approval or any part of them should be held invalid or void, the permit shall be void immediately.

## SECTION 9.06 - SITE PLAN REVIEW

### A. Purposes

The purposes of site plan review are to protect and enhance public health, safety, welfare and property, and more specifically to encourage site planning in advance of construction, also to protect neighboring owners and users, conserving and enhancing the natural and man-built character of the Town of Bath.

### B. Where Required

Site plan approval shall be required for all development on, or of, the real property in the following districts in accordance with the provisions of this Section, and no certificate of compliance or other authorization for development shall be issued prior to such approval. This section (9.06) is applicable in zoning districts B-1, B-2, I-L and also for all conditional uses and non-residential uses in all zones. Parking lots shall require site plan approval. Site plan review shall not alter the type and category of uses permitted in zoning districts.

### C. Plans Required

A site plan or plans, to scale, shall be submitted to the Town and shall include the location of all proposed buildings and structures, parking and servicing areas and landscaping. Alterations from existing conditions shall be noted. Sufficient detail shall be required to enable review according to the standards set forth herein.

### D. Standards

1. The following shall be required on all site plans and for all development reviewed:
  - a. A minimum of ten percent(10%) of the lot area being developed shall be landscaped, including a mix of vertical (trees) and horizontal elements (grass, ground cover, etc.). Major remodeling and properties in the "CBD" Central Business District shall require landscaping to the extent possible up to the ten percent (10%) requirement.
  - b. Natural landscaping shall be retained where possible to meet the landscaping requirement.
  - c. Unnecessary grade changes shall be avoided. Retaining walls shall be provided where needed.

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- d. Drainage shall be as approved by Zoning Administrator according to accepted engineering standards.
  - e. Off-street parking shall be buffered from the street and adjacent residential zones by means of landscaping or a low fence, but not to the extent of restricting visibility necessary for safety and security.
  - f. Ingress and egress locations on public thoroughfare shall be located in the interests of public traffic safety.
  - g. Parking spaces shall be designed according to Section 7.01.
  - h. There shall be reasonable access for emergency services (fire and police).
  - i. Outdoor lighting shall be provided for security and with minimum glare.
2. In addition the following shall be required on those site plans for multiple-family dwellings and for all such multiple-family development:
- a. Open recreational space shall be a minimum of 10% of the lot area being developed, and shall be in addition to the required landscaping. Up to 50% of the parking area may be considered as open recreational space.
  - b. Private or semi-private outdoor space for each unit shall be included, such as balconies or fenced yards.
  - c. The site plan shall be designed to minimize outdoor noise.
3. In addition, the following shall be required on those site plans for commercial and industrial uses, conditional uses and non-residential uses, and for such development:
- Emitting of odor, dust, smoke, fumes, noise, glare, heat, and vibration shall be minimized.
4. Building structures shall be consistent with the surrounding area and shall be aesthetically pleasing. All exterior surfaces of structures shall present a finished appearance.

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### E. Pre-Application Conference

All applicants are required to participate in a pre-application conference prior to submission of preliminary plans.

The purpose of the pre-application conference is to provide the applicant with the opportunity to explain the proposed development concepts, and for the staff to explain all the policies, ordinance, standards, opportunities and constraints which may be applicable to the site and type of proposed development, before the applicant has invested substantial design time or become committed to particular design solutions.

### F. Planning Board Review Process

1. The applicant shall submit four (4) copies of the site plan to the Zoning Administrator not less than fourteen (14) days prior to the Planning Board meeting at which time it will be reviewed.
2. The Planning Board shall consider the application and either approve, modify or deny the site plan.
3. If the Planning Board denies the site plan, it shall, in the minutes of the meeting at which the action is taken, set forth in writing the precise reasons why the finding was made and after suggestions as to how the deficiency could be resolved, or that it is incapable of solution consistent with the applicant's objectives. Any finding that does not include such a statement shall not be entitled to a presumption of validity in any appeal from a decision of the Planning Board.

### G. Plan Modification

Modifications of the original plans may be authorized by the Planning Board. The Zoning Administrator shall determine whether proposed changes from the approved plans are substantial enough to constitute modifications of the approved plans. The decision of the Zoning Administrator may be appealed as provided by law. In making his decision the Zoning Administrator shall assess the plan in relation to the following:

1. Any change in the signs as approved shall constitute a modification.
2. Any change in density shall constitute a modification.
3. Any change in parking areas resulting in a reduction of five (5) percent or more in the number of spaces shall constitute a modification. In no case shall the number be reduced below the minimum required by this ordinance.

4. Changes in vehicular or pedestrian traffic flow patterns shall constitute a modification.
5. Change in recreation areas or facilities shall constitute a modification. In no case shall recreation areas be reduced below the minimum required by this ordinance.

#### H. Violations

In the event of failure to comply with the plans approved by the Planning Board or with any other condition imposed upon the site plan, the plan shall thereupon immediately become void and of no effect and no building permits for further construction or Certificates of Compliance shall be issued; all completed structures shall be regarded as nonconforming uses subject to the provisions of Section 5.0 of this ordinance.

#### SECTION 9.07 - PROJECT IMPACT STATEMENT

Prior to any recommendation of the Planning Board and/or the issuance of any building permit or Certificate of Compliance involving a significant development project, the private or governmental developer may be required to submit a statement (to accompany the site plan) addressing any changes, positive or negative, in the social, economic, or natural surroundings of the Town of Bath which may result from implementation of said project.

A significant development shall include shopping center, subdivision, and other housing projects and industrial, commercial, institutional, public works projects. Except for the uses stated in this paragraph, significant development projects shall not consist of any project of less than 1 acre, or structures of less than five hundred (500) square feet in gross floor area.



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### SECTION 9.08 - CERTIFICATE OF OCCUPANCY REQUIRED

No land shall be used or occupied and no building, pier or dock hereafter structurally altered, erected or moved shall be used or its use changed until a certificate of occupancy shall have been issued by the Zoning Administrator stating that the proposed use and any buildings comply with the provisions of this ordinance. A similar certificate shall be required for the purpose of renewing, changing, or extending a non-conforming use. A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a building permit and may be issued within ten (10) days after the work has been completed in conformity with the provisions of this ordinance. A record of all certificates shall be kept on file by the Zoning Administrator.

A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that the temporary certificate may require conditions and safeguards to protect the safety of the occupants and the public.

### SECTION 9.09 - VIOLATION

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violations of its provisions.

#### ARTICLE X. PENALTY

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the Zoning Administrator, or any appropriate authority in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Violations of the provisions of these regulations shall be a misdemeanor under the North Carolina General Statute 14-4 and each day's continuing violation shall be a separate offense. Notwithstanding the criminal penalties, the Zoning Administrator may institute a civil action against the offender seeking enforcement by appropriate equitable remedy, injunction and order of abatement or by any remedy authorized by North Carolina General Statute 160 A-175 and 160 A-389, as amended.

## ARTICLE XI. BOARD OF ADJUSTMENT

### SECTION 11.01 - BOARD OF ADJUSTMENT ESTABLISHED

A Board of Adjustment is hereby established. The word "Board" when used in this Article shall be construed to mean the Board of Adjustment. The Board shall have five (5) regular members and three (3) alternates. Four (4) regular members and two (2) alternates shall be citizens of the town appointed by the Mayor and approved by the Board of Commissioners. One (1) regular member and one (1) alternate shall be residents of the extraterritorial area and shall be appointed by the County Commissioners in accordance with North Carolina General Statute 160A-362. One (1) of the initial members shall be appointed for a term of one (1) year; two (2) for terms of two (2) years; and two (2) members and the three (3) alternates for terms of three (3) years. Their successors shall be appointed for terms of three (3) years. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Board of Commissioners upon written charges and after public hearing. The members of the Board may be compensated according to a schedule adopted by the Board of Commissioners from time to time.

### SECTION 11.02 - CHAIRMAN OF THE BOARD

The Mayor shall designate one (1) of the members as chairman and another as vice-chairman who shall serve for one (1) year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this section.

#### SECTION 11.03 - MEETINGS OF THE BOARD

All meetings of the Board shall be held at a regular place and shall be open to the public. A quorum of four (4) members shall be present at the designated meeting place before a vote is taken or final disposition of any appeal is made upon which the Board is required to pass. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of that fact. The final disposition of appeals shall be by recorded resolution indicating the reasons of the Board. All of the minutes, deliberations and records of the Board shall be a public record. In the event a regular member shall be absent, an alternate member shall be notified to serve in the place of the regular member. Alternate members shall not otherwise participate in deliberation of the Board on any matter under the following sections.

#### SECTION 11.04 - POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

A majority vote of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance or to affect any variation of this ordinance.

##### (1) Administrative Review

The Board of Adjustment may hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance.

An appeal from the decision of the Zoning Administrator may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau of the town effected by the decision. The appeal must be taken within thirty (30) days by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds for it. The Zoning Administrator shall promptly transmit

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to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after the notice of appeal shall have been filed with him that: (1) by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property; or that, (2) because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator and due cause shown.

In exercising the above mentioned powers, the Board of Adjustment may, so long as the action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination that in its opinion ought to be made, and so shall have the powers of the Zoning Administrator.

#### (2) Interpretation

The Board of Adjustment shall interpret the Zoning Map and pass on questions of lot lines or district boundary lines and similar questions that may arise in the administration of the ordinance.

#### B. Variance: Conditions Governing Applications; Procedures; Fee

The Board of Adjustment may authorize upon appeal in specific cases a variance from the dimensional requirements of this ordinance which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A fee in accordance with a regularly adopted fee schedule of the town shall be paid to the town for each application for variance to cover the administrative expenses involved. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

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- (1) A written application for a variance is submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district;
  - e. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (2) Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which the variance is sought or his agent shall be notified by mail. Notice of the hearings shall be posted on the property for which the variance is sought at least fifteen (15) days prior to the public hearing.
- (3) The public hearing shall be held as advertised. Any party may appear in person or be represented by Agent or by Attorney.
- (4) The Board of Adjustment shall make findings that the requirements of Section 11.04(B) (1) have been met by the applicant for a variance.

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- (5) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) The Board of Adjustment shall further make a finding that granting the variance will be in general conformity with the town's plan of development and will not be injurious to the neighborhood, or otherwise detrimental to the public.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article X of this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

SECTION 11.05 - APPEALS FROM DECISION OF THE BOARD OF ADJUSTMENT

Any appeal from a decision of the Board of Adjustment to Superior Court shall be taken within thirty (30) days after the decision is filed in the office of the Town Administrator of the Town of Bath or after a copy of the decision is delivered to the appellant by registered mail, whichever is later. The Zoning Administrator shall file decisions of the Board of Adjustment in the office of the Town Administrator and shall send a copy by registered mail to the appellant on the next working day after a decision is rendered.

SECTION 11.06 - DUTIES OF ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT, COURTS AND BOARD OF COMMISSIONERS AS TO MATTERS OF APPEAL

It is the intention of this ordinance that all questions arising in connection with its enforcement shall be presented first to the Zoning Administrator and that questions shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator. From the decision of the Board of Adjustment recourse shall be had to courts as provided by law. The duties of the Board of Commissioners in connection with the ordinance shall not include hearing and passing upon disputed questions that may arise in connection with the enforcement of it. The procedure for determining those questions shall be as set out in this ordinance, and the duties of the Board of Commissioners in connection with this ordinance shall be only the duty of considering and passing upon any proposed amendment or approving any conditional use permit as provided by this ordinance.



## ARTICLE XII. CHANGES AND AMENDMENTS

### SECTION 12.01 - MOTION TO AMEND

The Board of Commissioners may, on its own motion or petition by any person within the zoning jurisdiction of the town, after public notice and hearing, amend, supplement, change, modify or repeal these regulations or the maps which are part of this ordinance, subject to the rules prescribed in this ordinance. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing is held in relation to it, at which parties in interest and citizens shall have an opportunity to be heard. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the area. The notice shall be published the first time not less than fifteen (15) days nor more than twenty-five (25) days prior to the date fixed for the public hearing.

### SECTION 12.02 - PROTEST AGAINST AMENDMENT

In case of a protest against an amendment, supplement, change, modification or repeal signed by the owners of twenty (20) percent or more either of the area of the lots included in the proposed change, or of those immediately adjacent to it either in the rear of it or on either side of it, extending one hundred (100) feet from it, or of those directly opposite extending one hundred (100) feet from the street frontage of the opposite lots, the amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. The provisions of this section shall not apply to any amendment which initially zones property added to the territorial coverage of this ordinance as a result of annexation or otherwise.

SECTION 12.03 - PROTEST PETITION: FORM; REQUIREMENTS; TIME FOR FILING

No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purpose of Section 12.02 of this ordinance, unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

SECTION 12.04 - PLANNING BOARD ACTION

Every proposed amendment, supplement, change, modification or repeal to this ordinance shall be referred to the Planning Board for its recommendation, and its report has been received by the Commissioner. This report shall elaborate on the compatibility of the proposed amendment with the officially adopted land use plan. No proposal shall be considered by the Planning Board within five (5) days from the filing of the proposal with the Zoning Administrator or Town Clerk. All petitions for a change in the zoning map shall include a legal description of the property involved and the names and addresses of abutting property owners of the proposed change.

SECTION 12.05 - FEE

A fee according to a regularly adopted fee schedule of the Town shall be paid to the Town for each application for an amendment to this ordinance or map to cover the costs of advertising and other administrative expenses involved.

## ARTICLE XIII. LEGAL STATUS PROVISIONS

### SECTION 13.01 - INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to conflict with other laws or to interfere with or abrogate or annul any easement, covenants, or other agreements between parties. Where this ordinance imposes a greater restriction upon the use or building or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall govern. Where the provisions of any other ordinance, law, or covenant require more restrictive standards, provisions shall govern.

### SECTION 13.02 - VALIDITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, that decision shall not effect the validity of the remaining portions of this ordinance. The Board of Commissioners declares that it would have passed this ordinance and each Article, Section, Clause and Phrase of it even if any one or more Articles, Sections, Sentences, Clauses or Phrases may be declared invalid.

### SECTION 13.03 - EFFECTIVE DATE

This ordinance shall become effective from and after its passage by the Board of Commissioners.

